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JUL 14 2006

OFFICE OF PETITIONS

In re Application of :
Vig, et al. :
Application No. 10/706,815 :
Filed: November 12, 2003 :
Attorney Docket No. 029-03US1 :
For: OPTICAL PULSE CALIBRATION
FOR QUANTUM KEY DISTRIBUTION

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 16, 2006 (certificate of mailing date June 13, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the January 20, 2006 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on April 21, 2006. A Notice of Abandonment was mailed on June 8, 2006.

Petitioners allege that the January 20, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the January 20, 2006 Notice been received. In addition, practitioner referenced the

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

docket record in the petition and stated that a review of the file jacket for the January 20, 2006 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 2136 for the re-mailing of the January 20, 2006 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



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